

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No. : 7,616,321
Issued : November 10, 2009
Application No. : 10/615,279
Filed : July 8, 2003
Applicant : Jeff Korn
TC/A.U. : 3737
Examiner : Roy Baisakhi
Docket No. : 3619-140
Confirmation No. : 8225
Customer No. : 6449

PETITION TO CORRECT PATENT TERM ADJUSTMENT

Director of the United States Patent
and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450
Dear Sir:

January 11, 2010

Applicants request that the Office revise the Patent Term Adjustment (PTA) calculated in connection with the above-identified now issued U.S. Patent. The number of days calculated by the Office was 1184 days. However, in view of the recent decision in *Wyeth v. Dudas*, the Applicants believe that they are entitled to additional PTA. Specifically, the PTA should be based on the number of days beyond 14 months before applicant received a first office action plus the number of days that pendency exceeded three years, minus any overlap between the two periods.

Filing date = 7/8/2003

14 month date 9/8/04

Three year date = 7/8/06

First Office Action = 12/16/04

Issue date = 11/10/09

First period = 1184 days

Second period = 1400 days

Overlap = 179 days

Applicant delay = 37 days

Total PTA = 1363 days

PETITION TO CORRECT PATENT TERM ADJUSTMENT

January 11, 2010

U.S. Pat. No. 7,616,321

Thus, the total PTA for this patent should be 1363 days, not 1184 days as originally calculated.

Furthermore, Applicants note the requirement in MPEP § 2733 that an application for a PTA be filed no later than the payment of the issue fee. However, because the opinion in *Wyeth v. Dudas* was just recently issued, that provision of the MPEP is inapplicable in this situation.

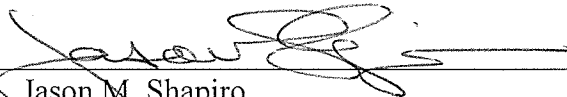
Authorization is hereby given to charge any fee deemed necessary in connection with the filing of this paper, or credit any overpayment, to Deposit Account No. 02-2135.

Respectfully submitted,

Date: _____

1/11/10

By _____



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